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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,291	12/03/2003	David W. Pratt	1053.30	1290
21901	7590	02/16/2006	EXAMINER	
SMITH & HOPEN PA 15950 BAY VISTA DRIVE SUITE 220 CLEARWATER, FL 33760			CHIN, PAUL T	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/707,291		PRATT, DAVID W.	
	<b>Examiner</b>		<b>Art Unit</b>	
	PAUL T. CHIN		3652	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because the reference number "46" (Figure 3) of bailer emptying device (32) should be changed to -- 48 -- (annular groove in tapered sidewalls). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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There is no antecedent basis for "the periphery of said bottom wall" (claim 1, lines 11-12). Note applicant does not define "the bottom wall" as "a circular body". Claim 1 recites "a bailer having a check valve" and claims 2 and 3 further recite "a bailer having a check valve". It is unclear as to whether "a bailer with a check valve", as defined in claims 2 or 3, refers to the "bailer" recited in claim 1 or refers to another bailer. Therefore, claims 2 and 3 are vague and indefinite.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-9, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Hunkin et al. (4,590,810).

Hunkin et al. (4,590,810) discloses a bailer comprising a cylindrical main body (10); a valve housing with tapered sidewalls (12,17) secured to a leading end of said cylindrical main body; said cylindrical main body having a trailing end adapted to be engaged by a means (Fig. 1) for lowering said bailer into a body of liquid fluid and for raising said bailer from said body of liquid fluid; a check valve (19) disposed in said valve housing, a bottom-emptying device (see Exhibit A) having a bottom wall and tapered sidewalls mounted about the bottom wall; periphery of said tapered sidewalls of said bottom-emptying device overlying the tapered sidewalls of said valve housing when said valve housing is fully received within said bottom-emptying device, an aperture formed in said bottom wall; a downspout depending from the bottom wall, said downspout having a lumen in fluid communication with said aperture; a peg

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mounted in upstanding relation to said bottom wall, said peg being positioned adjacent said aperture. Note that Hunkin et al. (4,590,810) shows a valve housing having upper tapered walls (12) and lower tapered walls as shown in figure 1.

## EXHIBIT A

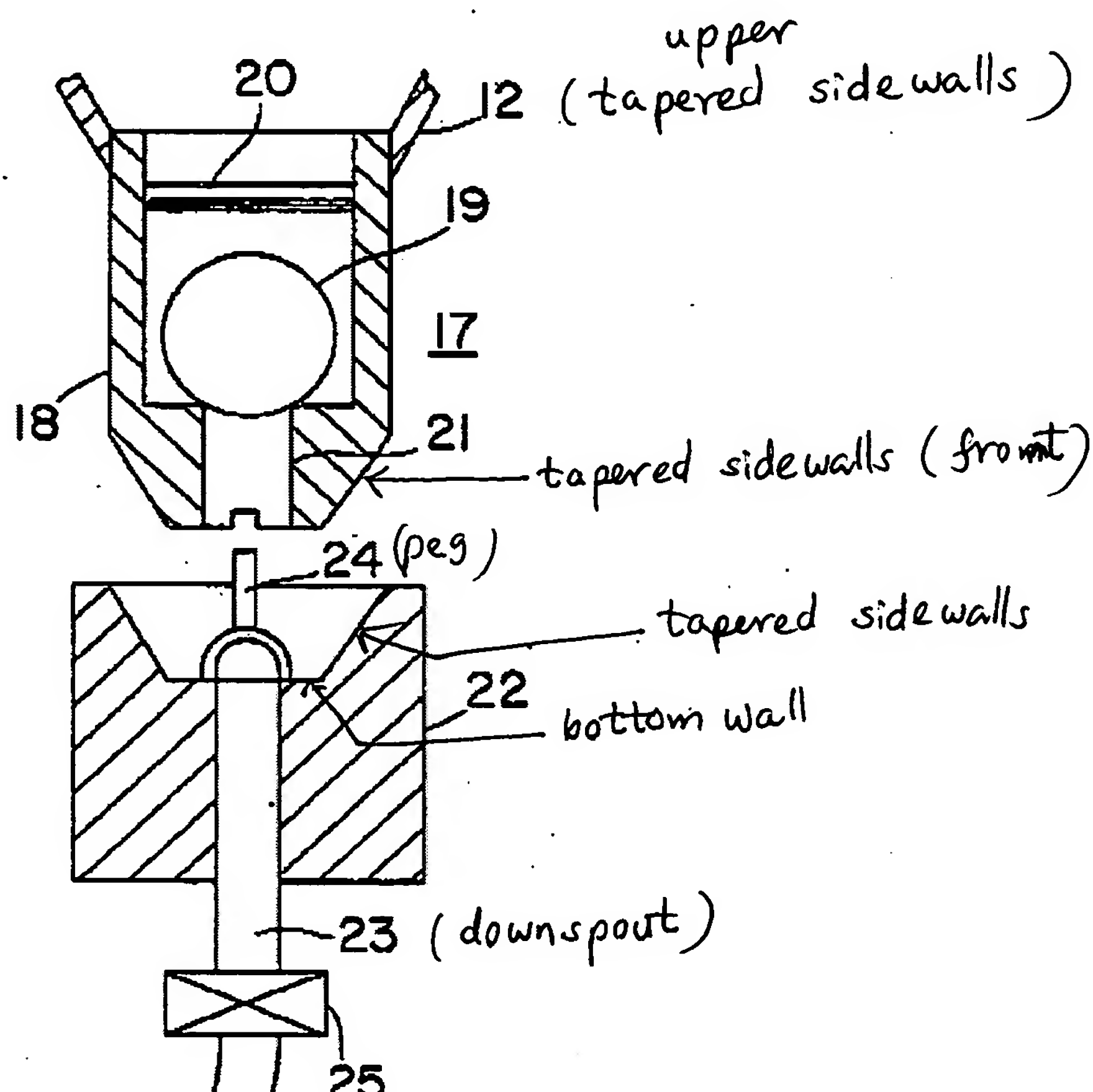


Exhibit A shows a bottom emptying device having a bottom wall and tapered side walls mounted about the periphery of the bottom wall wherein the bottom wall further having an aperture and a peg (24) mounted in upstanding relation to the bottom wall, and a downspout (23) depending from the bottom wall and being positioned substantially adjacent to the aperture. The downspout (23) has an inner bore or a lumen to allow the fluid flow from the downspout to the desired container.

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Re claims 4-9, the downspout (23) of Hunkin et al. device is a predetermined diameter, one to four inches, adapted to guide the desired containers (Col. 3, lines 41-66) and Hunkin et al. device is capable of performing the functions such as being guided to a vial or a wide mount container.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ridgeway, Jr. (5,878,813) shows a bailer (10) having a ball valve (22) and a peg (46) to allow the fluid to flow from the bailer body.

Steward (6,695,053) shows a bailer discharging device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (571) 272-6922. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



PAUL T. CHIN

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